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March 20, 2000

Via Facsimile (202) 219-3923  
and Hard Copy

Hon. Darryl R. Wold  
Chairman  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 4843

Dear Chairman Wold:

On Tuesday, March 14, 2000, the undersigned met with Ms. April Sands, the FEC attorney assigned to this matter, to discuss the Factual and Legal Analysis ("Analysis"), and the proposed Conciliation Agreement ("Agreement"), which was enclosed with your covering letter dated February 18, 2000. During that meeting, I expressed, on behalf of the Friends of Maurice Hinchey ("Friends"), several objections with regard to the factual contents of the Analysis and Agreement as well as concern that Mr. Frank Koenig, as Treasurer of Friends, was an inappropriate party to this proceeding. Ms. Sands suggested that Friends memorialize its comments, and she indicated that they would be attached to the final documents.

Accordingly, the following comments are submitted on behalf of Friends.

**FACTUAL AND LEGAL ANALYSIS**

1. Page three, third line from the bottom states: "On March 21, 1997, Ansaldo pleaded guilty to two misdemeanor counts of violating the Act (the Federal Election Campaign Act of 1971) in

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connection with \$43,000 in illegal contributions that it made to the Hinchey Committee during the 1992 campaign."

Ansaldo did not, in fact, make any contribution to Friends. All Ansaldo funds went directly to Besicorp, a corporation whose president, chief executive officer and majority shareholder was Michael F. Zinn. There was no relationship between Ansaldo and any one connected with Friends other than Mr. Zinn.

While the very next sentence in the Analysis acknowledges that the Ansaldo contribution was "made, at the direction of Mr. Zinn, to Besicorp," we believe that each and every sentence of the Analysis and Agreement should stand on its own with complete factual accuracy in order to minimize the prospects of it being misunderstood.

2. Page seven, first paragraph, second sentence states: "Even if the respondents' (Friends) purported cooperation with the criminal investigation did not provide the Hinchey Committee with knowledge sufficient to identify specific illegal contributions, such knowledge was available by no later than the entry of the guilty plea by Ansaldo in March 1997 and the entry of guilty pleas by Mr. Zinn and Besicorp in June 1997."

Use of the word "purported," in the above sentence is misplaced, and should be omitted. There is no question but that Friends cooperated fully and completely with the U.S. Attorney's Office. All documents were promptly turned over to the U.S. Attorney's Office and everyone associated with Friends willingly answered all questions asked by the Assistant United States Attorney in charge of the case.

The entry of guilty pleas by Ansaldo, Mr. Zinn and Besicorp should not represent the commencement date for Friends to refund the contributions. In a federal criminal proceeding, the day of a defendant's sentence is the day of the Court's Judgment. And it is the Judgment of the Court which represents finality of the matter.

3. Page seven, second paragraph, first sentence states: "The Hinchey Committee had an obligation to refund the contributions from Ansaldo and Besicorp within thirty days of

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learning that they were corporate contributions, and contributions made in the name of another."

As stated above, Friends obligation to refund the contributions commenced, it is respectfully submitted, on the day Judgment of the Court was entered.

4. Page seven, third paragraph, and page eight, first paragraph states that based on facts set forth in the indictment of Besicorp and Mr. Zinn, it appears that Friends may have violated the prohibition against accepting corporate in-kind contributions from them. "Specifically, the indictment alleges that Besicorp provided the Hinchey Committee with use of its facilities and resources in that a) the finance operation of the Hinchey campaign was conducted, in part, out of Besicorp's corporate headquarters; b) meetings of the Hinchey campaign finance committee were regularly conducted at a conference room in Besicorp's headquarters; c) phone and mail solicitations to the Hinchey campaign were organized and carried on from Besicorp's headquarters; d) contributions to the Hinchey campaign were regularly received, tabulated and recorded at Besicorp's headquarters; and, e) from July through November 1992, a number of Besicorp employees devoted a significant portion of their normal work day to work on the Hinchey campaign."

The final paragraph of the Analysis begins: "It appears that the Hinchey Committee did not reimburse Besicorp for the use of its facilities and the time that Besicorp employees spent on fundraising activities."

Friends categorically denies having any knowledge of allegations "a", "c", "d", and "e" above. Furthermore, while Friends is not in possession of its 1992 financial filings (they were turned over to the United States Attorney's Office), Friends best recollection is that it reimbursed Besicorp for item "b" above.

Friends respectfully urges the Commission to drop Frank Koenig, as Treasurer, from this proceeding. Mr. Koenig became Treasurer of Friends on September 19, 1997, before the Court's Judgment was entered but after Besicorp and Mr. Zinn, pleaded guilty. Regretfully, in March 1998, Mr. Koenig suffered a major

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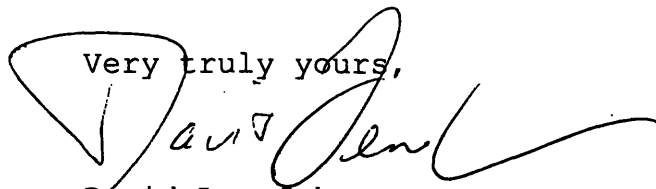
non-operable heart episode which caused him to greatly reduce his activities. In March 1998, before Besicorp and Mr. Zinn were sentenced, Mr. Koénig did not believe that he, as Treasurer, was under any obligation to make a refund.

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Finally, I wish to express my appreciation for the courtesies  
Ms. Sand has extended me.

Very truly yours,



David Lenefsky

cc: April Sands, Esq.  
dl:tfd

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